

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE FRED ORMOND,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45260

FILED

JUL 21 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CLERK DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On August 1, 2001, the district court convicted appellant, pursuant to a guilty plea, of one count of burglary and one count of grand larceny. The district court adjudicated appellant a habitual criminal and sentenced appellant to serve two concurrent terms of life in the Nevada State Prison with the possibility of parole. This court affirmed appellant's judgment of conviction and sentence on appeal.¹ The remittitur issued on August 19, 2003. Appellant unsuccessfully sought post-conviction relief.²

On March 31, 2005, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On April 18, 2005, the district court denied appellant's motion. This appeal followed.

¹Ormond v. State, Docket No. 38390 (Order of Affirmance, July 22, 2003).

²Ormond v. State, Docket No. 43280 (Order of Affirmance, November 19, 2004).

In his motion, appellant contended that his sentence was illegal because a life sentence exceeded the maximum sentence permissible for either burglary or grand larceny. He further claimed that he should only have received one sentence and that he improperly stipulated to habitual criminal status. Finally, he argued that NRS 207.010 (the habitual criminal statute) did not mandate a life sentence.

A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum.³ "A motion to correct an illegal sentence 'presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in proceedings that occur prior to the imposition of sentence.'"⁴

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's sentence was facially legal as he was adjudicated a habitual criminal and had the requisite number of convictions for large habitual criminal treatment, and there is no indication from the record on appeal that the district court was without jurisdiction in this matter.⁵ This court considered and rejected appellant's claim on direct appeal that he should only have received one sentence. This court further considered and rejected appellant's other attempts to challenge his habitual criminal adjudication on direct appeal

³Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

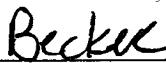
⁴Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

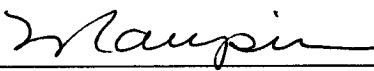
⁵See NRS 207.010(1)(b)(2).

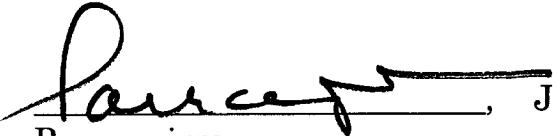
and in the first post-conviction proceeding. The doctrine of the law of the case prevents further litigation of his habitual criminal adjudication and cannot be avoided by a more detailed and precisely focused argument.⁶ Therefore, we affirm the order of the district court.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Becker


_____, J.
Maupin


_____, J.
Parraguirre

cc: Hon. Michelle Leavitt, District Judge
Willie Fred Ormond
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁶See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

⁷See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).